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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,299	10/05/2001	Richard Leon Ferencz	PGI6044P0211US	4098

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
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CHICAGO, IL 60661

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/972,299	Applicant(s) FERENCZ, RICHARD LEON	
	Examiner Jenna-Leigh Befumo	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4,8-12,14 and 16-24 is/are pending in the application.  
     4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-4,8-12,14,16,23 and 24 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. The Amendment filed on September 22, 2006, has been entered. Claims 5 – 7, 13, and 15 have been cancelled. Claims 1, 4, 9, 14, and 23 have been amended. Therefore, the pending claims are 1 – 4, 8 – 12, 14, and 16 – 24. Claims 17 – 22 are withdrawn from consideration for being drawn to a nonelected invention.
2. The amendments are sufficient to overcome the 35 USC 112 2<sup>nd</sup> paragraph rejections set forth in the previous Office Action.
3. The 35 USC 102/103 and 35 USC 103 rejections based on Jacobs et al. (5,810,954) is withdrawn since Jacobs et al. fails to teach using a film or cellulosic layer as a barrier layer in the composite fabric.
4. The 35 USC 102/103 and 35 USC 103 rejections based on Clark et al. (2002/0009941 A1) are withdrawn since Clark et al. fails to teach using monolithic or microporous film as the barrier layer in the spunbond composites.
5. The double patenting rejections over copending Application No. 10/263,482 and Application No. 10/266,398 are withdrawn since the copending applications do not claim using a film layer.

***Election/Restrictions***

6. Applicant's election without traverse of Group I, claims 1 – 16, 23, and 24 in the reply filed on September 22, 2006 is acknowledged.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or

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with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 14 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure fails to provide support for the claimed structure with two film barrier layers. While the disclosure does teach a four layer structure, the four layers are taught as being two outer spunbond layers and two intermediate meltblown layers. The disclosure never teaches using two film layers adjacent to each other and between two spunbond layers. In fact, the disclosure only generally discusses using film layers as a barrier layer which can be used in composite fabrics with spunbond layers. There is no teaching with regards to the specific structure of the composite materials made with film barrier layers, as recited in claim 14. Instead, the disclosure focuses specifically on composites comprising spunbond and meltblown layers, and is silent as to the exact structure of composites with film layers and spunbond layers.

Further, the disclosure fails to teach creating a multilayered composite with a spunbond/film/spunbond structure that also contains one or more layers of meltblown polyolefin fibers. The disclosure fails to teach combining different barrier layers together. More specifically, the disclosure fails to teach where the meltblown layers would be added to the multilayered composite. There is nothing in the disclosure that teaches or even suggests combining a film and meltblown barrier layer with two spunbond layers, as recited in claim 24.

***Claim Rejections - 35 USC § 103***

9. Claims 1 – 4, 9 – 11, 14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. in view of Shawver et al. (6,649,548).

The features of Clark et al. have been set forth in the previous Office Action. While Clark et al. discloses that spunbond layers can be produced bonded to additional layers such as film layers (paragraph 29), Clark et al. fails to teach using monolithic of microporous film layers in the composite. Shawver et al. is drawn to nonwoven web/film composites. Shawver et al. discloses that nonwoven/film laminates combine the barrier properties of film with the cloth-like attributes of a nonwoven (column 1, lines 17 – 25). Film are combined with nonwoven fabrics is to provide barrier properties, which can include breathable film layers allowing the composite to transmit moisture and be more comfortable to wear (column 1, lines 38 – 45). Shawver et al. discloses using breathable film layers in the composite material such as microporous film layers (column 9, lines 1 – 5). Also, the film can e a multi-layered film having a core layer and a skin layer (column 8, lines 27 – 32). Finally, Shawver et al. discloses that the nonwoven/film composite includes a spunbond layer bonded to a film layer, or the composite can incorporate a plurality of nonwoven layer such as a SFS laminate (column 10, lines 1 – 10).

Therefore, it would have been obvious to one having ordinary skill in the art to use microporous, breathable films or multi-layered films, as taught by Shawver et al., as the barrier film layer in composite disclosed by Clark et al. since Clark et al. suggests film layers can be combined with the spunbond layers and Shawver et al. discloses that breathable film layers allow the composite material to transmit moisture and be comfortable during wear. Further, it would have been obvious to use SF or SFS composite structures, as taught by Shawver et al., in the multilayered- composites disclosed by Clark et al. since nonwoven/film composites combine the barrier properties of film with the cloth properties of the nonwoven layers. Thus, claims 1 – 4, 9 – 11, 14, and 23 are rejected.

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10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. and Shawver et al. as applied to claim 1 above, and in further view of Brown et al. (5,939,341).

The features of Clark et al. and Shawver et al. have been set forth above. Clark et al. fails to explicitly teach using different polymers in the different spunbond layers. Brown et al. discloses that the spunbond layers in a composite having multiple spunbond layers need not be made from the same polymer (column 5, lines 43 – 45). Therefore, it would have been obvious to one having ordinary skill in the art to choose to use different polymer materials in the different spunbond layers, as taught by Brown et al., in the composite disclosed by Clark et al. to optimize or modify the properties of the composite by using different material which have different properties in the composite fabric. Thus, claim 12 is rejected.

11. Claims 8 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. and Shawver et al. as applied to claim 1 above, and further in view of Jacobs et al.

The features of Clark et al., Shawver et al. and Brown et al. have been set forth above. Clark et al. fails to teach using thermal bonding to bonding the multiple layers together. Jacobs et al. discloses composite fabric is formed by running the layers through heated nipped thermal bonding rolls (column 3, lines 49 – 53). Thus, it would have been obvious to bond the multiple layers together via thermal bonding, as taught by Jacobs et al., in the composite fabric disclosed by Clark et al. to produce a composite fabric to consolidate the multilayer fabric. Thus, claims 8 and 16 are rejected.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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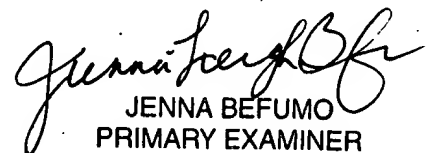
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlb  
December 10, 2006

  
JENNA BEFUMO  
PRIMARY EXAMINER